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FISCAL IMPACT STATEMENT

LS 7957
BILL NUMBER: SB 578

NOTE PREPARED: Mar 29, 2005
BILL AMENDED: Mar 28, 2005

SUBJECT: State Bonding Entities.

FIRST AUTHOR: Sen. Hershman
FIRST SPONSOR: Rep. Buell

BILL STATUS: As Passed House

FUNDS AFFECTED: X GENERAL
DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) This bill has the following provisions:

(A) It changes the membership of the Indiana Development Finance Authority, and renames it as the Indiana Finance Authority (IFA).

(B) It transfers the powers and duties of the State Office Building Commission, the Transportation Finance Authority, and the Recreational Development Authority to the IFA.

(C) It establishes the Office of Public Finance Director.

(D) It requires the IFA to establish a state debt management plan.

(E) It authorizes the IFA to issue bonds for the Wastewater and Drinking Water Revolving Loan Programs.

(F) It requires the IFA to administer the Wastewater and Drinking Water Revolving Loan Programs, the Supplemental Drinking Water and Wastewater Assistance Programs, and the Environmental Remediation Revolving Loan Program, and it transfers to the IFA powers and duties of the Budget Agency and Department of Environmental Management with respect to the programs.

(G) It repeals provisions concerning certain duties relating to the administration of the programs.

(H) It combines the Health Facility Financing Authority and the Educational Facilities Authority into a new

Health and Educational Facility Financing Authority, and it renames the Housing Finance Authority as the Housing and Community Development Authority.

(I) It requires the IFA, the Health and Educational Facility Financing Authority, and the Housing and Community Development Authority to adopt investment policies, and permits them to enter into swap agreements subject to those policies.

(J) It provides that certain actions taken by the IFA and the Indiana Bond Bank that might establish a moral obligation are subject to review by the Budget Committee and approval by the Budget Director.

(K) It replaces the Director of the Department of Financial Institutions with the Public Finance Director on the Board of Directors of the Indiana Bond Bank.

(L) It changes the membership of the Housing and Community Development Authority, and it transfers to the Indiana Housing and Community Development Authority responsibility for: (1) the administration of the Individual Development Account Program; (2) the administration of the Homeowner Education Account Program; and (3) the approval of contributions and programs for purposes of determining eligibility for the Neighborhood Assistance Tax Credit.

(M) It makes the issuance of bonds by the Housing and Community Development Authority, the Port Commission, or the State Fair Commission subject to the approval of the Governor.

(N) It allows a county treasurer and the fiscal officer of any political subdivision to invest or reinvest funds in obligations issued, assumed, or guaranteed by the State of Israel, and it provides that investments made in obligations issued, assumed, or guaranteed by the State of Israel must have a stated final maturity of not more than five years.

(O) It reduces the maximum term of bonds issued by the Port Commission from 50 years to 35 years.

(P) It prohibits the White River State Park Development Commission and the Indiana Political Subdivision Risk Management Commission from issuing bonds after June 30, 2005.

(Q) It provides that the Budget Agency may request and consider the recommendation of the IFA with respect to the approval of certain bond issues by state universities.

®) It makes provisions concerning surety bonds and annual reporting requirements consistent in various statutes governing bonding entities.

(S) It repeals provisions concerning the organization and administration of entities that are replaced by the IFA.

(T) It repeals criminal penalties for conflicts of interest under the State Office Building Commission statute.

(U) It legalizes bonds, notes, contracts, and obligations previously issued or entered into by certain bonding entities.

(V) It makes other conforming changes.

Effective Date: July 1, 2005.

Explanation of State Expenditures: *Indiana Finance Authority*: This bill addresses financial entities created by the General Assembly that are public bodies corporate and politic, and separate from the state. To the extent that these entities are separate from the state, the bill would not have fiscal impact on state government. However, the state may enter into lease or use and occupancy agreements with these entities to provide revenue to the entities to repay bond holders, or the state may have moral obligation (but no requirement) to repay bonds if the entity is unable to pay. Therefore, benefits from management and market efficiencies that are achieved by the financial entities affect costs to the state. The costs or savings of any efficiencies provided by placing responsibility for bonding functions into a single entity is indeterminable. The costs or savings of the proposal would be based on the actions of the Governor, of the state as leassor, of the General Assembly by appropriating funds, and the reaction of the bond market to the changes made.

Criminal Penalties: The bill would repeal current law Class D felonies for knowingly having an interest in or deriving a profit from a contract or purchase connected with a facility or an action of the State Office Building Commission, and for knowingly having a claim against the State Office Building Commission or the State of Indiana arising out of the construction of a facility. During the last five years, there were no convictions under this section that resulted in a prison sentence suggesting that the repeal of these crimes would have no fiscal impact. To the extent that the criminal behavior in this section is illegal under other statutes also indicates that there is no fiscal impact.

Background on the Indiana Finance Authority: The Indiana Constitution does not allow the state to undertake debt except in certain circumstances. The General Assembly has established financial entities that are separate from the state, but undertake debt financing for governmental purposes. Under the bill, the governing bodies of some of these financial entities would be repealed and the Indiana Finance Authority would be the successor.

Under the bill, the Indiana Development Finance Authority is replaced by the Indiana Finance Authority (IFA or Authority). The new Authority assumes all powers, duties, and liabilities from the following entities which are repealed along with their governing boards:

(1) The Indiana Development Finance Authority,
(2) The State Office Building Commission,
(3) The Indiana Transportation Finance Authority, and
(4) The Recreation Development Commission.

In addition, the IFA assumes the powers, duties, agreements, and liabilities of the Department of Environmental Management, the Treasurer of State, Budget Agency, and the Auditor of State concerning:

(1) The Wastewater Revolving Loan Program,
(2) The Drinking Water Revolving Loan Program, and
(3) The Supplemental Drinking Water and Wastewater Assistance Program.

IFA works with and assists various entities with the issuance of bonds, notes or other indebtedness including:

(1) The Indiana Health and Educational Facilities Financing Authority (created under this bill),

(2) The Indiana Housing and Community Development Authority (renamed from the Indiana Housing Finance Authority),
(3) The Indiana Port Commission, and
(4) The State Fair Commission.

Under the bill, the IFA, a separate body corporate and politic, has a board of directors consisting of five members, including the Budget Director or a designee, the State Treasurer or a designee, and three other members appointed by the Governor. The members are entitled to reimbursement for travel and other expenses. (The IDFA, which is replaced by the IFA, has nine board members who are entitled to per diem reimbursement, as well as travel expenses.)

The bill creates the position of Public Finance Director, appointed by the Governor. The position would replace the secretary-manager, who under current law is the Lieutenant Governor. The Director would administer, manage, and direct the affairs and activities of the Authority, approve the salary of any employees or consultants, and perform other duties assigned by the members of the Board.

In consultation with the Treasurer of State, the Indiana Bond Bank, the Budget Agency, and the Indiana Commission for Higher Education, the IFA updates a state debt management plan. Some of the requirements of the plan include an inventory of existing debt, projections of future debt, and recommendations concerning the use of debt and strategies to minimize costs associated with debt issuance.

Background on the Indiana Health and Educational Facilities Financing Authority: Under the bill, the Indiana Health and Education Facility Financing Authority (IHEFFA) is established to combine the Indiana Education Financing Authority, which is repealed, and the Indiana Health Facility Financing Authority. The IHEFFA would have a seven-member governing board, including the Governor or a designee, the Public Finance Director (created under the bill), the State Health Commissioner or a designee, and four members appointed by the Governor. The Governor would also appoint an executive director for the IHEFFA whose salary is fixed by the governing board. (Under current law, there is an executive director for both the Indiana Education Financing Authority and the Indiana Health Facility Financing Authority.)

Background on the Indiana Housing Finance Authority: The Indiana Housing Finance Authority is renamed the Housing and Community Development Authority and assumes administrative responsibility for the Individual Development Account Program and the Homeowner Education Account Program. On average over the last five years, the Individual Development Account has received appropriations of $1.8 million per year and had expenses or made grants for $868,500 per year. The bill would transfer the Home Ownership Education Account in the state General Fund from the Department of Commerce to the Indiana Housing and Community Development Authority. Revenue to the Home Ownership Education Account comes from mortgage fees. The Indiana Housing and Community Development Authority approves contributions and programs for purposes of determining eligibility for the Neighborhood Assistance Tax Credit, which under current law is under the Department of Commerce and the Indiana Economic Development Corporation.

Background on Debt - Review and Approval, and Administration: The IFA, the IHEFFA, and the Indiana Housing Finance Authority adopt investment policies under the bill. These three entities are permitted to invest in swap agreements if permitted by the entity's investment policy. Debt that requires the IFA or Indiana Bond Bank to certify to the General Assembly the amount needed to restore a debt service reserve fund or that creates a moral obligation of the state is subject to review by the Budget Committee and approval by the Budget Director. Within 21 days after a request by a bank, the Budget Committee and the

Budget Director will have to act or the transaction will be considered reviewed or approved. The Governor approves debt issued by the Indiana Port Commission, the State Fair Commission, or the Indiana Housing Finance Authority. The bill repeals the authority of the White River State Park and Political Subdivisions Risk Management Commission to issue debt.

The IFA will issue debt for the Wastewater Revolving Loan Program and the Drinking Water Revolving Loan Program, and the current debt of these entities transfers from the Indiana Bond Bank to the IFA. The IFA may enter into agreements with the Budget Agency and the Indiana Department of Environmental Management to manage these funds.

Individuals involved in the issue of debt post a surety bond of $50,000 conditioned upon the faithful performance of the individual's duties. The IFA will provide reports of activities to the Governor, the Budget Committee, and the General Assembly at the close of each fiscal year. Expenses incurred by the IFA are paid from the funds available. Under the bill, the IFA allocates budgeted expenses among the various financing programs administered by the authority.

Background on Existing Debt: There are existing entities that are separate from the state and authorized to issue different types of debt including revenue bonds, moral obligation bonds, and contingent obligations. Long-term debt obligations by authority are shown in the table below.

Authority **Type of Debenture**	**Original Par Value**	**June 30, 2004** **Ending Balance**
<u>State Office Building Commission</u> Payable from Possible State Appropriations	$1.4 billion	$836 million
<u>Transportation Finance Authority</u> Payable from Possible State Appropriations Contingent Obligations	$1.9 billion $652 million	$1.6 billion $218 million
<u>Recreation Commission</u> Payable from Possible State Appropriations	$40 million	$27 million
<u>Bond Bank</u> Payable from Possible State Appropriations Contingent Obligations	$38 million $493 million	$34 million $397 million
<u>Development Finance Authority</u> Contingent Obligations	$68 million	$50 million
Note: The table summarizes debt issued as of June 30, 2003.		

<u>**Explanation of State Revenues:**</u>

<u>**Explanation of Local Expenditures:**</u>

<u>**Explanation of Local Revenues:**</u> Under the bill, a political subdivision that is in default on principle or interest payments of an obligation issued by the Indiana Finance Authority or an entity controlled by the Authority will have payments due from state departments or agency withheld.

State Agencies Affected: Indiana Department of Environmental Management; Treasurer of State; Auditor of State; Indiana Economic Development Corporation.

Local Agencies Affected: Political subdivisions in default on payments.

Information Sources: State Budget Agency; Department of Correction.

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